

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA SPARTANBURG DIVISION

DAVID GARDNER,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
BMW MANUFACTURING CO., LLC,	§	Civil Action No. 7:16-03458-MGL-JDA
MANAGEMENT ANALYSIS &	§	
UTILIZATION INC. d/b/a MAU	§	
WORKFORCE SOLUTIONS, INC., and	§	
TIER ONE SOLUTIONS, INC.,	§	
	§	
Defendants.	§	
	§	

ORDER ADOPTING THE REPORT AND RECOMMENDATION AND DISMISSING THE COMPLAINT WITH PREJUDICE

This action arises under the Americans with Disabilities Act, 42 U.S.C. § 12101. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting this action be dismissed with prejudice for failure to prosecute under Federal Civil Procedure Rule 41(b). The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court

may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on June 13, 2017, ECF No. 51, but Plaintiff failed to file any objections to the Report. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court this action is **DISMISSED WITH PREJUDICE** under Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

Signed this 30th day of June 2017 in Columbia, South Carolina.

s/ Mary Geiger LewisMARY GEIGER LEWISUNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.